

EXHIBIT 10

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
CIVIL ACTION NO. 1:14-CV-00954-LCB-JLW

STUDENTS FOR FAIR
ADMISSIONS, INC.,

Plaintiffs,

vs.

UNIVERSITY OF NORTH
CAROLINA, et al.,

Defendants.

DEPOSITION
OF
JIM DEAN

THIS DEPOSITION CONTAINS CONFIDENTIAL AND
PROPRIETARY INFORMATION AND IS SUBJECT TO A PROTECTIVE
ORDER RESTRICTING PUBLIC DISCLOSURE OF ITS CONTENTS

TAKEN AT THE OFFICES OF:
UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL
222 East Cameron Avenue
110 Bynum Hall
Chapel Hill, NC 27514

06-23-17
9:03 A.M.

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Court Reporter

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1 Q. Do you know whose decision that was?

2 A. No.

3 Q. At one point was there -- do you know
4 whether there was discussion about -- about
5 keeping Education Counsel's involvement in the
6 report as part of the contents of the report?

7 A. I don't know.

8 Q. All right. If you'd turn to page 1 of
9 the report here. I want to just sort of walk
10 through some of the conclusions in this report.

11 Was it your intention when you -- when
12 you had this report prepared to kind of provide a
13 comprehensive assessment as to the benefits of
14 diversity at the university?

15 A. "Comprehensive" is a strong word, but
16 but I think so, yes.

17 Q. I'll ask you after we review everything,
18 but I guess my question is, Are you aware of any
19 particular benefits from racial diversity at the
20 university, specifically aware, that are not
21 addressed in this report?

22 MR. SCUDDER: Objection to the
23 form.

24 A. I'd have to go back and check, but it
25 feels like this was -- we were trying to capture

1 **it.**

2 Q. (Mr. Strawbridge) Okay. So the first
3 page of this report, the first heading is entitled
4 "Carolina's Commitment to Diversity and
5 Inclusion," and it says in the first sentence,
6 "The University of North Carolina is committed to
7 creating and sustaining a diverse and inclusive
8 community of students and faculty and staff."

9 A. Uh-huh (yes).

10 Q. When -- when this report refers to
11 diversity, it's referring to racial diversity?

12 MR. SCUDDER: Objection to the
13 form.

14 A. No. It's referring to diversity in all
15 of its manifestations.

16 Q. (Mr. Strawbridge) Okay. But that
17 includes racial diversity?

18 A. Yes.

19 Q. And what -- what in your experience --
20 or I guess as the -- as the person charged with
21 preparing this report, what are the other
22 manifestations of diversity?

23 MR. SCUDDER: Objection to form.

24 A. Well, it would include -- there's a --
25 sort of a growing list of elements that have to do

1 should stop using race in the admissions process?

2 A. No.

3 MR. STRAWBRIDGE: Do you want to
4 take a break now?

5 MR. SCUDDER: That would be great.
6 Thank you.

7 (Brief recess: 11:21 a.m. to 11:36 a.m.)

8 Q. (Mr. Strawbridge) So the next section
9 on the report -- we're on page 6 of the exhibit
10 that we were looking at -- is entitled "Realizing
11 the Benefits of Diversity and Inclusion."

12 I guess I wanted to ask about the first
13 sentence, which says, "The achievement of these
14 crucial benefits requires sustained and purposeful
15 action." What do you mean by "sustained"?

16 A. It means continued over some period of
17 time.

18 Q. And does that include the use of race in
19 the admissions process?

20 A. I don't know specifically what was meant
21 in that exact sentence.

22 Q. Do you know whether or not this report
23 is intended to provide a basis for the continued
24 use of race in the admissions process?

25 A. I don't know that that was the

1 Q. (Mr. Strawbridge) In fact, you'd agree
2 with me, right, that the United States has a
3 has a rather sordid history of racial
4 discrimination?

5 A. Yes.

6 Q. And -- and are you aware that the
7 Supreme Court's -- you mentioned earlier you're
8 familiar with the decision in Fisher II ---

9 A. Yes.

10 Q. --- generally speaking?

11 A. Generally speaking.

12 Q. And are you aware that the Supreme Court
13 has made clear that universities must satisfy
14 strict scrutiny in determining -- in -- in
15 justifying their use of race in the admissions
16 process?

17 MR. SCUDDER: Objection just to the
18 extent it's calling for any kind of legal view or
19 opinion.

20 A. I -- I wouldn't know the phrase "strict
21 scrutiny," but I know that we have some
22 responsibilities in that area, yes.

23 Q. (Mr. Strawbridge) Let's look at the
24 phrase I think that's in this report at some
25 point, on page 17 of this report.

1 A. Okay.

2 Q. The first full paragraph from the bottom
3 says, "In all instances, we will ensure strict
4 compliance with our obligations under the law."
5 And if you go down to the next sentence, it says,
6 quote, "We will continue to confirm that our
7 admission practices adhere to the legal standards
8 defined by the Supreme Court."

9 A. Forgive me, but I'm not finding this.

10 Q. Yeah. I'm sorry. It's page 17.

11 A. Right.

12 Q. The last full paragraph.

13 A. Oh, the last full paragraph. Sorry. I
14 heard "first full paragraph."

15 Q. That's okay.

16 A. Okay. Now I see it: "We will ensure
17 strict compliance with our obligations under the
18 law."

19 Q. Yeah. What do you -- what do you do
20 you have an understanding as to what the
21 obligations under the law are?

22 A. With respect specifically to race in the
23 admissions process?

24 Q. Yes.

25 A. Okay. My understanding is that the

1 Fisher II decision does allow for race to be used
2 as a factor in admissions; that it allows it to be
3 one of many factors that are used; that it cannot
4 be the defining factor; and that the only
5 admissible reason -- or the only, I guess it's
6 fair to say, legal reason to allow for it is to
7 promote the educational benefits of diversity and
8 that the university -- all -- all universities
9 that use race in any way in admissions are
10 required to show that they are regularly checking
11 to see whether other approaches to admission to
12 admissions might achieve the same goals.

13 Q. Do you know whether anybody in the
14 admissions office is a -- is -- opposes the use of
15 race in the admissions process?

16 A. I don't know.

17 Q. Do you know whether anyone on the
18 Committee for Race-Control Strategies has ever
19 expressed a view that race should not be used in
20 the admissions process?

21 A. I don't know.

22 Q. Do you know whether or not anyone in the
23 university's administration has ever questioned
24 whether race should continue to be used in the
25 admissions process?